

»» Newsletter: The pension reform of the Michel I government

September 2015

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Dear reader,

As announced in the coalition agreement of 9 October 2014, the Michel I government is continuing pension reform. The new measures are set out in the Act of 10 August 2015 increasing the legal retirement age and changing the access conditions for early retirement and the minimum age for entitlement to survivor's pension.

In contrast with the previous government, the current government is also tackling the normal statutory retirement age and increasing it over time.

Furthermore, the conditions for early retirement are being made even stricter. The gradual tightening of the age and career condition, which was introduced by the previous government for the period 2013-2016, will be continued by the current government in a similar way for the period 2017-2019. Again, a number of exceptions and transitional measures are provided and they are similar to those of the previous reform.

Moreover, parallel with the age for accessing the statutory pension, the age for accessing the statutory survivor's pension is gradually increased as well. For the persons who have not yet reached the minimum age to be entitled to a survivor's pension at the moment of the death of the spouse, the new system of the transitional allowance will apply. Again, this is a continuation of a reform which was introduced by the previous government.

These pension measures apply for the three pension regimes (employees, self-employed persons and public sector employees). For the public sector employees, the number of study years taken into account for the career conditions for the early retirement (the "diploma bonification") will be gradually reduced as from 2016.

In this newsletter you will find an overview of the new measures regarding (early) retirement.

We hope you enjoy the read!

1 Increasing the statutory retirement age

Currently, the statutory legal retirement age is determined at 65 years old. As from 1 January 2025 this age will be increased to 66 and 67 as from 1 January 2030.

In this framework, no transitional measures or exceptions are provided. This may have to do with the fact that this increase is already announced and put into law 10 years in advance. In other words, these changes apply for everybody, within the pension system for employees, the pension system for self-employed persons, and the pension system for the public sector.

2 Stricter conditions for early retirement

2.1 Statutory pension of employees in the private sector

➤ Further progressive increase in the age and career conditions

In the short term, the changed access conditions for early retirement will have a bigger impact on departures from the labour market than the increase in the statutory retirement age.

As a reminder, the previous government already introduced a progressive increase in the age and career conditions for early retirement. Previously, until 31 December 2012, an employee could take up early retirement as from the age of 60 if he had at least a career of 35 years. The pension reform of 2012 led to a gradual increase in the age and career conditions until the age of 62 and a career of 40 years in 2016.

The current government has chosen to implement a similar gradual increase in the age and career conditions for the period 2017-2019 as well. During this period, the age condition will be increased by 6 months per year, in order to end at the age of 63 in 2019. The career condition will become 41 years in 2017 and then 42 years in 2019.

As was also the case with the previous reform, the legislator provides for exceptions for the long careers in order to not punish those people who started working at a younger age. In the following table, you will find an overview of the age and career conditions prevailing as from 2015.

	year	minimum age	career condition	exceptions long career
reform Di Rupo government	2015	61,5 years	40 years	60 years of age with career of 41 years
	2016	62 years	40 years	60 years of age with career of 42 years 61 years of age with career of 41 years
reform Michel government (new measures)	2017	62,5 years	41 years	60 years of age with career of 43 years 61 years of age with career of 42 years
	2018	63 years	41 years	60 years of age with career of 43 years 61 years of age with career of 42 years
	2019	63 years	42 years	60 years of age with career of 44 years 61 years of age with career of 43 years

In order to ensure that everybody who was born in the same year will be treated the same way, the age and career conditions applicable in December of the previous year will be applied, for the persons who celebrate their birthday in December, whose pension thus starts in January.

➤ Retention of the right to early retirement

In order to avoid that employees would stop working earlier, out of fear that they could no longer take up the early retirement at a later date because of the changed age and career conditions, the so-called “click guarantee” -

which was introduced by the previous government - continues to apply. This means that the employees who meet the age and career conditions for early retirement at a certain date, reserve the right to early retirement regardless the starting date of it (even if they do not meet the age and career conditions at that moment).

➤ Transitional measures

For various reasons including the consultation with the social partners, the law provides for a number of transitional measures, which you will find below in a schematic overview.

conditions	transitional measure
being at least 59 years of age in 2016	<ul style="list-style-type: none"> • limitation of number of additional years of employment compared to the previous age and career conditions • age and career conditions applicable on 31.12.2016, each increased by one year: <ul style="list-style-type: none"> - 63 years of age with career of 41 years; or - in case of a long career: 62 years of age with career of 42 years / 61 years of age with career of 43 years. <p><i>example</i></p> <ul style="list-style-type: none"> - 59 years of age and career of 37 years in 2016 - previous conditions → early retirement in 2019 (62 years of age with career of 40 years) - new conditions → early retirement in 2021 (63 years of age with career of 42 years) - transitional measure → early retirement in 2020 (63 years of age with career of 41 years)
<ul style="list-style-type: none"> • dismissed, resigned or employment contract ended by mutual agreement employer/employee with performance of notice period or payment of indemnity in lieu of notice; <u>and</u> • notice period / period covered by indemnity in lieu of notice started before 9 October 2014 and ends after 31 December 2016; <u>and</u> • (previous) age and career conditions are met at the end of the notice period / period covered by the indemnity in lieu of notice <p>→ add copy of notification notice + start/duration of notice period/period covered by indemnity in lieu of notice to the application for early retirement to the National Pensions Office (RVP /ONP)</p>	<p>early retirement in accordance with the age and career conditions in force on 31.12.2016:</p> <ul style="list-style-type: none"> - 62 years of age with career of 40 years; or - in case of a long career: 61 years of age with career of 41 years / 60 years of age with career of 42 years. <p>Points of attention!</p> <ul style="list-style-type: none"> ☞ check whether the current terminated employment contracts with the purpose of early retirement comply with the conditions → if not, new age and career conditions apply ☞ for new terminations, new age and career conditions apply

- individual and written agreement regarding **early departure** (e.g. *garden leave*) concluded before 9 October 2014, which is based on:
 - legal/regulatory provisions; or
 - collective instrument:
 - (i) work rules (submitted to competent direction of Federal Public Service before 9.10.2014)
 - (ii) collective bargaining agreement (filed before 9.10.2014)
 - (iii) pension plan rules (in force before 9.10.2014); and
 - legal/regulatory provisions or collective instrument providing for procedure early retirement with purpose of early retirement
 - out of the framework of unemployment with company allowance (former prepension) and
 - (previous) age and career conditions are met at the end of the employment contract (= end of early departure scheme)
- add copy of individual employment contract + (if applicable) collective instrument to the application for early retirement to the National Pensions Office (RVP /ONP)

early retirement in accordance with the age and career conditions in force on 31.12.2016:

- **62 years of age** with career of **40 years**; or
- in case of long career: 61 years of age with career of 41 years / 60 years of age with career of 42 years.

Points of attention!

- ➡ check whether current agreements in the framework of early departure comply with the conditions → if not, new age and career conditions apply
- ➡ for new agreements in the framework of early departure, new age and career conditions apply

2.2 Statutory pension public sector

➤ Further progressive increase in the age and career condition, gradual reduction diploma bonifications

The general rules (and table) as described above for the private sector also apply for the pensions of the civil servants of the public sector.

With respect to the career conditions for early retirement, the new rules regarding the diploma bonification must be taken into account for the civil servants. The system of

the diploma bonification means that the study years, required to obtain the diploma required for the statutory appointment, can (partly) be taken into account as career years, both for the calculation of and for the entitlement to the statutory pension.

As from 1 January 2016 the diploma bonification will be gradually abolished by the Act of 28 April 2015 relating to various provisions, as regards the permissibility conditions for early retirement. The reduction of the diploma bonification depends on the required duration of study in order to obtain a diploma.

	duration of study of 2 years or less	duration of study of more than 2 but less than 4 years	duration of study of 4 years or more
number of months reduction diploma bonification	4 months per year	5 months per year	6 months per year

➤ Transitional measures

For the public sector as well, the Act provides a number of specific transitional measures.

These measures apply for specific end-of-career schemes in the public sector (“disponibility”) and for older people.

conditions	transitional measures
<ul style="list-style-type: none"> • being placed in disponibility prior to retirement at the latest on 1.1.2015; • at the latest on 2 September having filed an application for disponibility prior to the retirement and having approval of the employer at the latest on 1.1. 2015; • being eligible to retire at the latest on 1.1.2015 with disponibility (but did not make use of this). 	<ul style="list-style-type: none"> • no reduction diploma bonification • early retirement in accordance with the age and career conditions in force on 31.12.2016: <ul style="list-style-type: none"> - 62 years of age with career of 40 years; or - in case of long career: 61 years of age with career of 41 years / 60 years of age with career of 42 years. <p>(Exceptions possible for preferential tantièmes, better than standard fracture 1/60).</p> <p>Points of attention!</p> <ul style="list-style-type: none"> ➡ check data application / approval / permissibility conditions disponibility ➡ for new disponibility applications, the new age and career conditions apply
<p>Transitional measures older employees</p> <ul style="list-style-type: none"> • being at least 59 years of age in 2016 • being at least 57 years of age in 2016 • being at least 55 years of age in 2016 	<ul style="list-style-type: none"> • early retirement is possible based on rules 31.12.2015 + maximum 1 year postponement • early retirement is possible based on rules 31.12.2015 + maximum 2 years postponement • early retirement is possible based on rules 31.12.2015 + maximum 3 years postponement <p><i>example</i></p> <ul style="list-style-type: none"> - 59 years of age in April 2016 and actual career of 33 years in 2016 + degree in Economics (4y bonification) - tantième 1/60 - conditions 2015 → early retirement in May 2019 (62 years of age with career of 40 years = 36 actual years + 4 bonification years) - under new conditions → no early retirement possible because of reduction diploma bonification → retirement at 65 - transitional measure → early retirement in May 2020 (conditions 2019 + 1 year postponement)

2.3 Statutory pension for self-employed persons

➤ Further progressive increase in age and career conditions

The general rules (and table) as described before for the private sector also apply for self-employed persons.

➤ Transitional measures

For the self-employed persons as well, the Act provides a number of specific transitional measures.

conditions	transitional measure
being at least 59 years of age in 2016	same transitional measure as for employees
being born before 1956 and having 32 years of career by 31.12.2012 at the latest	<p>early retirement is also possible in 2017 or later at the age of 62 if individual has 37 years of career at that moment.</p> <p><i>example</i></p> <ul style="list-style-type: none"> - 57 years of age and career of 32 years in 2012 - new conditions → only retirement at the age of 65 (never meets the career conditions) - transitional measure → early retirement in 2017 (62 years of age with career of 37 years)

2.4 What is the impact of the new measures on occupational pensions?

The Act of 10 August 2015 only regulated the (early) statutory pension. The rules for occupational pensions will not be changed by it. Thus, until now it is still possible to take up the occupational pension as from (at the earliest) the age of 60. However, since 1 July 2013 it has become less interesting to take up the occupational pension before the age of 62 as less favourable tax rates apply to the part accrued with employers' contributions (20% at the age of 60 and 18% at the age of 61 compared to 16.5% as from the age of 62 or 10% as from the age of 65 if effectively active until then) (see our [Newsletter of 11 January 2013](#)).

However, it should be noted that - probably in the short term - a change can be expected in this respect. In the coalition agreement of 9 October 2014 it was indeed announced that measures would be developed in order to discourage early departure (from the labour market) and to ensure that the occupational pension could not be taken before the statutory pension (the earliest age at which the statutory (early) pension can be taken). Moreover, the consequences of such an action are said to be already included in the federal budget for 2016, which would mean that we could still expect these measures before the end of 2015.

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